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FM AMCONSUL SAO PAULO
TO RUEHC/SECSTATE WASHDC 8334
INFO RUEHBR/AMEMBASSY BRASILIA 9470
RUEHRI/AMCONSUL RIO DE JANEIRO 8766
RUEHRG/AMCONSUL RECIFE 4145
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UNCLAS SAO PAULO 000322

SIPDIS

DEPARTMENT FOR CA/FPP

E.O. 12958: N/A
TAGS: KRFD CVIS KCRM SMIG BR
SUBJECT: Sao Paulo Domestic Employee Validation Study

REF: 04 STATE 172283

¶1.   Summary: A recent study of B-1 domestic employee visas issued
in Sao Paulo found a 3.5% overstay rate. By instituting new fraud
prevention procedures, we hope to reduce this rate even further by
closing certain loopholes. In almost all cases, overstays involved
both the employer and the applicant misrepresenting that the nanny
would be returning. End Summary.

¶2.   Data on applications was extracted from the CCD (Consular
Consolidated Database) using sample parameters of all B-1 Domestic
Employee visas issued between Aug 1 and December 31, 2007. Using
these criteria, 340 issuances were pulled and placed in an Excel
Spreadsheet. All were then run through DHS' ADIS (Arrival-Departure
Information System) to verify entries and exits.

¶3.   An initial review of the ADIS results indicated 241 had traveled
and returned, 54 (15.9%) had not traveled more than six months after
visa's issuance, and 45 had traveled and were still in the U.S. A
review of the issuances indicated that 20 of the non-returnees
involved an employer who would be in the U.S. for an extended period
of time (17 working for L-1's; 1 for an H1-B; 1 for an O-1; and 1 to
accompany their employer visiting her sick child for 6 months), 3
had pending Adjustments of Status (AOS), and one had an approved
AOS. Phone checks were then done for the remaining 21 cases. In 7
of those cases, return to Brazil was confirmed. Additionally, one
pending AOS returned to Brazil before this study was concluded and
one was found to have married an AmCit, yielding a total of 12
overstays (3.5%).

¶4.   An analysis of the overstays indicates:

-- In three of the cases the employer left the domestic to work for
a son or daughter living in the U.S.;

-- In three cases, the employer was an AmCit who moved back to the
U.S. and took the domestic with them;

-- In one case, the domestic asked to stay on for a few extra days
following the employers return to Brazil and simply remained;

-- Four appear to have paid to be taken to the US by their
"employer," ie. smugglers;

-- And one we were unable to contact.

¶5.   The study identified three possible smugglers who operated both
during the time period covered by the study and outside it. Two are
clear cases of smuggling, where a husband or wife, together or
separately, applied for a visa for their domestic employee,
accompanied them to the U.S. and left them, repeating the process
frequently over a relatively short time. In one case, the
individual successfully obtained three domestic employee visas
between September 2007 and March 2008. In another a husband and
wife separately obtained five domestic employee visas between
September 2007 and May 2008. The last case involved a husband and
wife who appear to have escorted three domestic employees as part of

larger scheme involving 11 overstays across several visa categories. All three cases are subject of ongoing investigations.

¶6. Comment: In response to the study, Sao Paulo has instituted additional fraud prevention procedures to try and deter such smugglers. All domestic employee cases will now be associated in NIV with the employers, to enable officers to easily see if the employer has previously applied for a domestic. As this will not identify cases where a domestic visa was obtained before the start of this procedure, FPU will also conduct full CCD text searches on all new domestic employee cases for the next several months. One-half of the overstays illustrate a distinct challenge in adjudicating domestic employee visas. When the domestic is taken to the U.S. to work for a family member or an AmCit, it appears to be the employer who is the motivating factor in the overstay. The officer must try to judge both the applicant's intent and the employer's intent in requesting the visa. End Comment.

STORY